

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4481 OF 2019
(Uday Sahakari Grah Nirman Sanstha Maryadit Vs. Ramchandra
Nagappa Choudhari and others)

Mr.S.Y.Patil h/f Mr.U.L.Momale, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 12/06/2019

PER COURT :

1. The petitioner/housing society is aggrieved by the order dated 12/10/2018 passed by the Trial Court in RCS No.36/2014 by which application Exh.226 filed by defendant No.10 seeking appointment of a Court Commissioner as *Nimtandar* so as to have a *Nimtana* measurement, has been allowed.

2. Learned Advocate for the petitioner submits on instructions that though the impugned order could not have been passed, the Housing Society members are suffering the rigours of litigation since defendant No.1 is prolonging the matter. It is alleged that defendant No.1 Ramchandra has sold a plot from the open land/space belonging to the Society. If a time frame is granted, as the impugned order is still not implemented after 8 months, the grievance of the petitioner would be redressed.

3. In view of the above, I am passing the following order without issuing notice to the respondents as I am directing the implementation of the order dated 12/10/2018. As such, this petition is disposed off with the following directions :-

[a] In the event, defendant No.1 Ramchandra has not deposited the Nimtana commission fees and the documents as per Clause (3) of the impugned order, he shall do so, as expeditiously as possible and in any case on or before 28/06/2019.

[b] If the amount is already deposited, the Nimtandar shall complete the exercise of re-measurement, which is termed as Nimtana measurement, by giving notice to all the litigating sides, within a period of 8 (eight) weeks from today.

[c] If the amount is not already deposited and is now deposited in view of the above directions, the Nimtandar shall proceed to issue notice to the parties and shall carry out the re-measurement in accordance with the order passed, within 6 weeks thereafter.

[d] The Trial Court would endeavour to decide RCS No.36/2014 (Original No.240/2010) as expeditiously as

possible and in any case on or before 31/12/2019.

[e] In the event, the above direction of depositing money is not complied with by defendant No.1, the order of the Trial Court dated 12/10/2018 shall lose its efficacy on 28/06/2019.

[f] The Trial Court is at liberty to refuse adjournments to the litigating sides, if such requests are based on unreasonable grounds.

(Ravindra V.Ghuge, J.)